UNITED
NATIONS

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Economic and Social Council

Distr.
GENERAL

E/1992/26
12 February 1992

ORIGINAL: ENGLISH

REPORT OF THE COMMISSION ON TRANSNATIONAL CORPORATIONS ON THE FIRST PART OF ITS EIGHTEENTH SESSION

(23-25 January 1992)*

* The report of the Commission on Transnational Corporations on its eighteenth session will be issued in two parts.

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Chapter I

RESOLUTION ADOPTED BY THE COMMISSION

1992/1. Recommendations of the Commission on Transnational Corporations to the Preparatory Committee for the United Nations Conference on Environment and Development*

The Commission on Transnational Corporations,

Recalling Economic and Social Council resolution 1991/55 of 26 July 1991,

Noting that, after the adoption of Economic and Social Council resolution 1991/55, the Preparatory Committee for the United Nations Conference on Environment and Development had requested that development considerations, including those relating to large industrial enterprises, including transnational corporations and business practices, and the environment, be integrated into all Agenda 21 programme documents, where appropriate,

Taking note of the report of the Secretary-General concerning transnational corporations and sustainable development, 1/ and expressing its appreciation for his efforts,

Recalling the conclusions and recommendations of the United Nations Industrial Development Organization Conference on Ecologically Sustainable Industrial Development, held at Copenhagen from 14 to 18 October 1991, 2/

Taking note of the elaboration by the International Chamber of Commerce of the Business Charter for Sustainable Development,

Requests the Chairman of the Commission on Transnational Corporations at its eighteenth session to transmit the report of the Secretary-General concerning transnational corporations and sustainable development, 1/ and the report on the first part of the eighteenth session, containing the views expressed by member and observer States and the proposals made, 3/ to the Chairman of the Preparatory Committee for the United Nations Conference on Environment and Development for consideraton under Agenda 21 at the fourth session of the Preparatory Committee.

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* For the discussion, see chap. II below.

1/ E/C.10/1992/2.

2/ See GC.4/25/Add.1.

3/ See chap. II below.

Chapter II

RECOMMENDATIONS OF THE COMMISSION ON TRANSNATIONAL CORPORATIONS TO THE PREPARATORY COMMITTEE FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

1. The Commission considered agenda item 3 at its 1st and 2nd meetings, on 23 and 25 January 1992. It had before it the report of the Secretary-General entitled "Transnational corporations and sustainable development: recommendations of the Executive Director" (E/C.10/1992/2).

2. In introducing the item, the Chairman of the Commission noted that to help set the agenda for environment and development into the next century was the opportunity of a lifetime for the Commission.

3. The Executive Director of the United Nations Centre on Transnational Corporations recalled Economic and Social Council resolution 1991/55, in which the Council had requested him to prepare, after extensive consultations with all the relevant parties, action-oriented and practicable recommendations on cooperation for protection and enhancement of the environment in all countries. Those recommendations would form the basis of the contribution of the Commission on Transnational Corporations to the preparations for the United Nations Conference on Environment and Development, to be held in Brazil in June 1992.

4. The Executive Director noted that international business and Governments should know what was expected of one another. It was not a choice between command and control mechanisms and market forces but - as the real world required - a mixture of the two. The recommendations indicated the expectations for international business, Governments and international organizations. In recent years industry had made great strides in self-regulation; however, no State member of the Commission had developed an effective environment policy without an environmental protection law. It was in that context that market-based incentives would be effective. In the benchmark survey, transnational corporations had reported that the main impetus for a global corporate environment policy was the law in their home countries and that international corporations wanted the international community to establish clear guidelines and standards. The Centre had conducted an open process of consultation with international business organizations (such as the International Chamber of Commerce and the Business Council on Sustainable Development), transnational corporations, non-governmental organizations, church groups, academics and other experts. Governments had assisted by providing expert advisers. More than 250 written responses had been received. The entire process had been possible owing to, among other things, support from the Governments of Norway and the Netherlands. In following the design that the Preparatory Committee had laid out for Agenda 21, the recommendations formed a comprehensive work plan for the future. Like a medium-term plan, they included objectives, goals, outputs and schedules. In preparing the recommendations, the Centre had consolidated,

in one statement, principles on transnational corporations and environmental protection from other forums, such as the International Labour Organisation and the Organisation for Economic Cooperation and Development. It expressed general principles that had been articulated by international business through industrial associations but had not yet been adopted by intergovernmental bodies. It built upon the policies and practices of current leading environmentally sound management.

5. Many delegations expressed their satisfaction with the Centre's well researched and well documented work, undertaken in the preparation of the recommendations. Some delegations noted that the recommendations should have been less specific. Many delegations considered that the important issues relating to the environment and business practices should be discussed by the Preparatory Committee at its fourth session and by the Conference. There was general support for the notion that the Centre's work in the area should be geared to large enterprises, including transnational corporations, and to business practices and the environment.

6. One representative, speaking on behalf of a group of countries, said that the members of the group were particularly satisfied with the detail and breadth of the recommendations. He noted that the document would rectify the lack of references to business practices and the environment in the current draft of Agenda 21. Since there was not enough time during the session to discuss the recommendations of the Executive Director in detail, the group wished the recommendations to be submitted in their entirety to the Preparatory Committee at its fourth session so that they could be fully discussed and negotiated in that forum.

7. One delegation, speaking on behalf of another group of countries, stressed the need to address all business enterprises rather than focus on transnational corporations, and noted that large business enterprises, especially transnational corporations, were already making a contribution to environmental protection. Other delegations agreed with that idea. In general, the recommendations appeared too regulatory. The group was of the opinion that the Preparatory Committee should take into account the guidance proposed by the Commission and other relevant work on business practices and the environment, such as the Business Charter for Sustainable Development and the report of the Conference on Ecologically Sustainable Industrial Development (GC.4/25/Add.1), submitted by the Director-General of the United Nations Industrial Development Organization (UNIDO) to the General Conference of UNIDO in November 1991.

8. Some delegations were particularly concerned that the recommendations were too regulatory in nature and did not give enough attention to market mechanisms. Those delegations indicated that the recommendations gave rise to fundamental objections and were not acceptable to their Governments. They also noted that, since there were many industries other than transnational corporations that seriously polluted the environment, singling out transnational corporations was not only incorrect, but unproductive, leaving

most of the serious issues unaddressed. Moreover, one delegation noted that transnational corporations and home countries could not be responsible for the lack of regulation in host countries.

9. Other delegations stressed the usefulness of the report in preparing Agenda 21, since little attention had been given thus far to the issues addressed by the recommendations. Those delegations appreciated the fact that the report reflected a way of thinking and a way of operating which already characterized the activities of corporations displaying a particular sense of responsibility in those matters. Those delegations also trusted that the report would be forwarded in its entirety to the Preparatory Committee. Many of the recommendations could be usefully considered by the Committee when it dealt with the question of the transfer of environmentally sound technologies. Other recommendations could either be fitted in or merged to form their own section. Those delegations appreciated the attention given to targets and costs.

10. Another delegation noted that the recommendations rightly recognized the effective contributions that corporations had already made and supported the idea that some independent and cooperative medium might be created whose responsibility would be shared by Governments and enterprises to deal with business and sustainable development. Finally, the representative of a non-governmental organization said that, although the business community had participated in the development of the recommendations of the Executive Director, there were several areas about which it had major concerns regarding the proposals.

Action taken by the Commission

Recommendations of the Commission on Transnational Corporations to the Preparatory Committee for the United Nations Conference on Environment and Development

11. At the 1st meeting, on 23 January, the representative of Pakistan, on behalf of the States Members of the United Nations that are members of the Group of 77, introduced a draft resolution (E/C.10/1992/L.1) entitled "Transnational corporations and the environment", which read as follows:

"The Commission on Transnational Corporations,

"Recalling Economic and Social Council resolution 1991/55 of 26 July 1991,

"Taking note with appreciation of the report of the Secretary-General concerning transnational corporations and sustainable development (E/C.10/1992/2),

"Requests the Chairman of the Commission on Transnational Corporations at its eighteenth session to transmit the recommendations of the Executive Director contained in the report of the Secretary-General in their entirety to the Chairman of the Preparatory Committee for the United Nations Conference on Environment and Development for detailed consideration and negotiation by the Preparatory Committee for the Conference, at its fourth session, under Agenda 21."

12. Also at the 1st meeting, the representative of Portugal, 4/ on behalf of the States Members of the United Nations that are members of the European Economic Community, introduced a draft resolution (E/C.10/1992/L.2) entitled "Business and environment", which read as follows:

"The Commission on Transnational Corporations,

"Noting that, following the adoption of Economic and Social Council resolution 1991/55 of 26 July 1991, the Preparatory Committee of the United Nations Conference on Environment and Development requested that development considerations, including those relating to large industrial enterprises and business plans and the environment, be integrated in all Agenda 21 programme documents,

"1. Welcomes the conclusions and recommendations of the Conference on Ecologically Sustainable Industrial Development, which was organized by the United Nations Industrial Development Organization and held at Copenhagen from 14 to 18 October 1991;

"2. Takes note with interest of the report of the Secretary-General concerning transnational corporations and sustainable development (E/C.10/1992/2);

"3. Recognizes the need to facilitate the creation and operation of sustainably managed businesses, through the adoption of appropriate market-based policies, and stresses the importance of effective environmental management by all businesses, including transnational corporations;

"4. Invites the Preparatory Committee of the United Nations Conference on Environment and Development, at its fourth session, to take account in its preparations for the Conference of the role of business in promoting sustainable development and, in particular, the need for business to work towards:

"(a) Developing appropriate corporate policies further to promote a shift towards sustainable development;

4/ In accordance with rule 72 of the rules of procedure of the Economic and Social Council.

"(b) Establishing or strengthening corporate and environmental management systems, including environmental compliance auditing, and organizational structures to monitor the adjustment to sustainably managed corporations;

"(c) Conducting environmental practices on a consistently high basis in all global operations and integrating, where appropriate, those practices with the sustainable development needs of host countries;

"(d) Reducing emissions and waste at the source through input and process changes rather than relying on end-of-pipe treatment by using cleaner industrial production processes and improving energy efficiency;

"(e) Assuming a cradle-to-grave assessment approach to industrial products and projects;

"(f) Promoting research and development activities relating to cleaner production technologies, giving priority to technologies that offer potential for improved efficiency and reduced pollution and the provision of training facilities for developing countries for this purpose;

"(g) Contributing to the transfer of environmentally sound technology and management methods through the industrial and public sectors;

"(h) Considering, where feasible, the use of environmentally sound substitute materials, renewable sources of energy and raw materials and recycling;

"(i) Minimizing the use and export of highly hazardous processes, products, wastes and services by enterprises and, where appropriate, developing and maintaining emergency preparedness plans;

"(j) Developing and redesigning products and services, taking account of the shift towards a sustainable lifestyle;

"(k) Providing information on the possible environmental effects of products;

"(l) Fully complying with national and regional environmental laws, intergovernmental environmental guidelines and instruments and industry trade association standards and cooperating with Governments and relevant international organizations in their further development;

"(m) Including environmental considerations in corporate accounting and reporting to help relate the environmental activities of enterprises to their financial position and performance;

"(n) Incorporating environmental costs into the production of goods and services to send the right signals to producers and consumers;

"5. Recommends that Member States develop their dialogue with business on environmental issues so as to promote positive contributions by business towards the solution of environmental problems;

"6. Also recommends that Member States seek to establish a stable and transparent legal framework for environmental standards, thus enabling businesses to conform more efficiently to those standards and to plan ahead."

13. At the 2nd meeting, on 25 January, the Chairman introduced a draft resolution (E/C.10/1992/L.4) entitled "Recommendations of the Commission on Transnational Corporations to the Preparatory Committee for the United Nations Conference on Environment and Development", which was submitted on the basis of informal consultations.

14. The representative of Tunisia made a statement.

15. At the same meeting, the Commission adopted draft resolution E/C.10/1992/L.4 (see chap. I, resolution 1992/1).

16. After the draft resolution was adopted, statements were made by the representatives of Japan, Tunisia and Pakistan (on behalf of the States Members of the United Nations that are members of the Group of 77), and the observer for Portugal (on behalf of the States Members of the United Nations that are members of the European Economic Community).

17. In the light of the adoption of draft resolution E/C.10/1992/L.4, draft resolutions E/C.10/1992/L.1 and E/C.10/1992/L.2 were withdrawn.

18. One representative, while expressing disappointment that, at the conclusion of the session, there was no substantial contribution to the fourth session of the Preparatory Committee of the United Nations Conference on Environment and Development, noted that, in the view of his delegation, the recommendations of the Executive Director would serve simply as reference material at that session.

19. One delegation, speaking on behalf of a group of countries, reiterated the position of the group that the recommendations of the Executive Director, contained in the report of the Secretary-General should be considered in detail and action taken thereon by the Preparatory Committee at its fourth session.

20. One representative stated that, since the fourth session of the Preparatory Committee was a negotiating session, the word "consideration", in the understanding of his delegation, should be "negotiation".

21. One delegation, speaking on behalf of a group of countries, stated that the understanding of that group was that the negotiations to be held at the fourth session of the Preparatory Committee would be based only on the proposals made by States participating in the work of the Committee. Documents other than the proposals of States would not constitute a basis for the negotiations.

22. In the view of one delegation, that did not imply that the documentation of the secretariat of the United Nations Conference on Environment and Development would not be a basis for negotiation.

23. Another delegation responded that there was general agreement in the Preparatory Committee that Agenda 21 should be the result of a negotiating process and that, therefore, the documentation to be prepared by the secretariat of the United Nations Conference on Environment and Development was basically background material, except where the Preparatory Committee specifically requested the secretariat to prepare a compilation of the views expressed by Governments through the Chairmen of the Working Groups.

24. The Chairman stated that it was his understanding that the United Nations Centre on Transnational Corporations would remain seized of the ongoing work on transnational corporations and sustainable development and would have an opportunity to discuss that subject at the second part of its eighteenth session.

Chapter III

ADOPTION OF THE REPORT OF THE COMMISSION ON THE FIRST PART OF ITS EIGHTEENTH SESSION

25. At the 2nd meeting, on 25 January, the Commission adopted the draft report on the first part of its eighteenth session (E/C.10/1992/L.3 and Add.1), as orally amended and revised by the Rapporteur.

Chapter IV

ORGANIZATION OF THE SESSION

A. Opening and duration of the session

26. The Commission on Transnational Corporations held the first part of its eighteenth session at United Nations Headquarters from 23 to 25 January 1992. The Commission held two meetings (1st and 2nd).

27. The session was opened by the Vice-Chairman of the seventeenth session, Mr. Jose Lino B. Guerrero (Philippines).

B. Attendance

28. The following States members of the Commission attended the session: Argentina, Bangladesh, Belgium, Bulgaria, Burundi, Chile, China, Colombia, Congo, Costa Rica, Czechoslovakia, Egypt, France, Germany, Ghana, Guatemala, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Jamaica, Japan, Kenya, Mexico, Netherlands, Pakistan, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Sierra Leone, Swaziland, Sweden, Switzerland, Thailand, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Zambia and Zimbabwe.

29. The following States Members of the United Nations were represented as observers: Algeria, Australia, Brazil, Cameroon, Cuba, Finland, Greece, Guinea, Malaysia, Norway and Turkey.

30. The following specialized agency was represented: International Labour Organisation.

31. The following non-governmental organizations in consultative status with the Economic and Social Council, category I, were represented: International Chamber of Commerce and International Organisation of Employers.

C. Election of officers

32. At its 1st and 2nd meetings, on 23 and 25 January 1992, the Commission elected the following officers by acclamation:

Chairman: Farooq Sobhan (Bangladesh)

Vice-Chairmen: Albert Mudenda Muchanga (Zambia)
Herbert Samuel Walker (Jamaica)

Rapporteur: Wojciech Ponikiewski (Poland)

33. At the 2nd meeting, the Committee agreed to postpone the election of the remaining Vice-Chairman to the second part of its eighteenth session.

D. Agenda and organization of work

34. At the 1st meeting, on 23 January, following a discussion in the Commission, the Chairman proposed that item 3 entitled "Transnational corporations and the environment" be amended to read "Recommendations of the Commission on Transnational Corporations to the Preparatory Committee for the United Nations Conference on Environment and Development".

35. At the same meeting, the Commission adopted the provisional agenda contained in document E/C.10/1992/1 and Corr.1, as amended (see annex I).

36. The representative of Tunisia stated that it was his understanding that item 3, as amended, applied to the first part of the eighteenth session; for the second part of the session, the provisional agenda as approved by the Economic and Social Council in its decision 1991/285 would apply.

E. Documentation

37. The documents before the Commission at the first part of its eighteenth session are listed in annex II.

Annex I

AGENDA OF THE FIRST PART OF THE EIGHTEENTH SESSION

1. Election of officers.

2. Adoption of the agenda and organization of work.

3. Recommendations of the Commission on Transnational Corporations to the Preparatory Committee for the United Nations Conference on Environment and Development.

4. Adoption of the report of the Commission on the first part of its eighteenth session.

Annex II

DOCUMENTS BEFORE THE COMMISSION AT THE FIRST PART OF ITS EIGHTEENTH SESSION

Document symbol	Agenda item	Title or description
E/C.10/1992/1 and Corr.1	2	Provisional agenda
E/C.10/1992/2	3	Transnational corporations and sustainable development: recommendations of the Executive Director: report of the Secretary-General
E/C.10/1992/L.1	3	Transnational corporations and the environment: draft resolution submitted by Pakistan, on behalf of the States Members of the United Nations that are members of the Group of 77
E/C.10/1992/L.2	3	Business and environment: draft resolution submitted by Portugal, on behalf of the States Members of the United Nations that are members of the European Economic Community
E/C.10/1992/L.3 and Add.1	4	Draft report
E/C.10/1992/L.4	3	Recommendations of the Commission on Transnational Corporations to the Preparatory Committee for the United Nations Conference on Environment and Development: draft resolution submitted by the Chairman of the Commission on the basis of informal consultations

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